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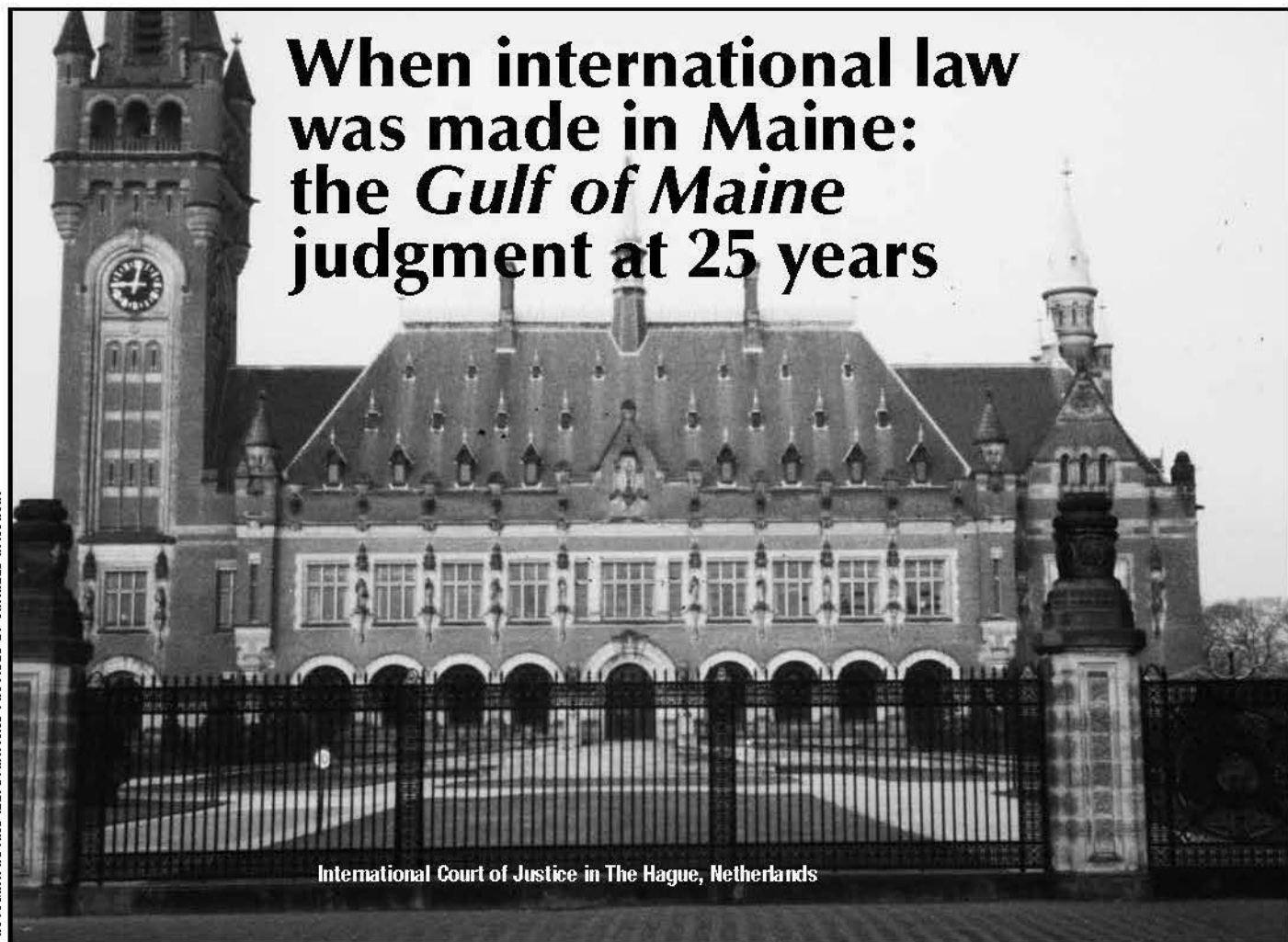
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When international law was made in Maine: the *Gulf of Maine* judgment at 25 years



International Court of Justice in The Hague, Netherlands

by Charles H. Norchi

On April 1, 1984, readers of the *Portland Sunday Telegraph* newspaper saw a story titled “The Battle for Georges Bank.” The article began: “Beginning tomorrow, U.S. and Canadian lawyers will present their cases to the International Court of Justice at The Hague, the Netherlands. . . . The court’s decision will be binding and cannot be appealed.”

A KEY MEMBER OF THE AMERICAN TEAM WAS MAINE lawyer Ralph Lancaster, who said, “Never before has any court been asked to locate a single boundary line which will fix—for all time—the rights of countries in both the seabed and the water column. The lives of hundreds, if not thousands, of fishermen and the fishing industry itself will be substantially affected.” The high stakes implicated fishing, petroleum and mineral resource rights of Canada and the United States. The battle would culminate before a World Court established by member governments of the United Nations. This past October marked the twenty-fifth anniversary of the decision known as the *Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Canada/United States of America) rendered by The International Court of Justice. The judgment fixed a maritime boundary that had

been in question since the American war of independence. On this occasion, international law was created in Maine—and in significant measure by lawyers from Maine.

The judgment has continuing impact upon marine and mineral resources of Maine, the Canadian maritime provinces, ocean jurisdiction of the United States and Canada, and the evolution of international maritime boundary law. The boundary as determined by the Chamber awarded roughly two-thirds of the Gulf of Maine and nearly three quarters of Georges Bank to the United States, with Canada receiving the remainder.

In a public service tradition, Maine-connected lawyers contributed greatly to the American effort and to the resulting decision. Davis R. Robinson, a Maine resident, was legal adviser to the Department of State and was the agent for the

United States. Portland lawyer Ralph I. Lancaster, a Pierce Atwood partner, was the special counsel for the United States. University of Maine School of Law alumnus Ralph J. Gillis was an attorney-advisor to the United States team.

Lancaster became involved in the case in March 1979, spent six weeks during 1983 at The Hague for oral arguments, and presented an expert witness to the Chamber, which is extremely rare in the World Court. Afterwards in the *Portland Sunday Telegraph* of April 1, 1984, Lancaster said, "It's consumed a substantial amount of my working and some of my sleeping hours just because of the volumes of information. In a January 12, 1985 interview in the *Maine Lawyers Review* he further observed that "It was an extraordinary experience and, professionally, probably the highlight of my career." He noted an additional benefit from his World Court litigation experience: "I now know more about fish than I ever wanted to know."

Prelude to a Judgment

THE INTERNATIONAL COURT OF JUSTICE IS A CRITICAL FORUM for resolving national maritime boundary delimitation claims. However, proceedings of the Court are merely one phase in the assertion of state competence over authority and control of ocean zones that are ultimately clarified in a formal delimitation judgment. The process begins with events, incidents, and coastal state demands that are a prelude to international litigation.

Following intense Canadian and American ocean claims in the Gulf of Maine area, the two governments resorted to the International Court of Justice. The delimitation issue lay dormant until the 1960s when the United States and Canada were exploring for hydrocarbon resources in the northwest Atlantic. As the Court noted,

This dispute first developed in relation to the continental shelf of what is now the delimitation area, and did so as soon as exploration for hydrocarbon resources was begun on each side, particularly in the subsoil of certain parts of Georges Bank. Exploration for hydrocarbon resources of the continental shelf in the Gulf of Maine area began in the 1960s. ... In 1953, the

United States had enacted the Outer Continental Shelf Lands Act, the primary text governing activities on its continental shelf, but because the status of Georges Bank as the principal fishing bank on the East Coast raised important environmental concerns, exploration proceeded slowly and development has been deferred. The first United States permits for geophysical exploration in this area were issued in 1964. On the Canadian side, the first regulations authorizing oil and gas operations in off-shore areas were issued in 1960 (Canada Oil and Gas Regulations), and in 1964 the Canadian Government began to issue exploration permits in the Gulf of Maine area. Canada has made it clear that when issuing such permits, in the absence of any delimitation of the continental shelf agreed with the United States, it treated the equidistance line as a working boundary, drawing its inspiration from Article 6 of the 1958 Convention on the Continental Shelf, at least to the extent of including, in any permits issued extending to areas beyond that line, a caveat to the effect that the permit was issued "subject to the lands contained in the grid areas being Canadian lands."¹

By 1969, the boundary of the continental shelf in the area emerged as an official issue during diplomatic talks and hence formal negotiations between the two states proceeded throughout the 1970s.² Over that decade, the two countries remained in disagreement over the continental shelf and the fishery resources of the Georges Bank, one of the richest fishing grounds on the planet and holding potentially valuable oil and gas reserves.³ The United States and Canada continued to assert overlapping claims to the continental shelf and superjacent waters of the Gulf of Maine seaward from the coast to a distance of two hundred nautical miles.⁴ On March 29, 1979, the two governments concluded a Treaty to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area.⁵

The International Court of Justice: Some Background

The International Court of Justice was established by the United Nations and is the successor to the Permanent Court of International Justice, which operated under the League of Nations until that organization's demise. The Court sits at the Peace Palace in The Hague, Netherlands. It is composed of fifteen judges who are elected to nine-year terms of office

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by both the United Nations General Assembly and the U.N. Security Council, and are drawn from the principal legal systems of the world. The Court may not include more than one citizen of the same state.

Only nations appear before the Court in contentious cases. The Court can also render advisory opinions on legal questions at the request of the administrative organs of the United Nations or its specialized agencies that are authorized by charter to put questions of international law before the Court. The statute of the Court lists these sources of international law to be applied to disputes: international treaties and conventions in force; international customary law; general principles of law; and judicial decisions and the teachings of the most highly qualified publicists. If the parties agree and stipulate,

clause within a treaty providing that in the event of a dispute one of the two states may refer the matter to the International Court of Justice, (3) through a reciprocal declaration made by each state whereby the jurisdiction of the Court is accepted as compulsory.⁷ Contentious case proceedings are often initiated through a bilateral special agreement lodged with the Court by either of the states parties to the proceedings. The special agreement indicates the subject of the dispute and the parties thereto.⁸ The *Gulf of Maine (Canada/United States)* case was initiated by special agreement annexed to a bilateral treaty.⁹

Nations appearing before the Court are represented by an agent, who functions similar to an attorney in a domestic court, with an enormous difference: he or she possesses the diplomatic power to commit a sovereign state. In the public hearings, the

agent opens the argument on behalf of the government and places written submissions before the Court. Agents are assisted by co-agents, deputy agents or assistant agents and counsel who prepare briefs (called memorials), replies, counter-memorials, and exhibits. Counsel typically deliver oral



the Court can decide a case *ex aequo et bono*, without limiting itself to existing rules of international law.

The Court typically discharges its duties as a full court of fifteen judges. However, at the request of the parties, it may establish *ad hoc* chambers to examine specific cases. The International Court of Justice Statute provides that “[T]he Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.”¹⁰ The Gulf of Maine Case was argued to a chamber of five judges. Four were selected from the bench and an additional *ad hoc* judge (Cohen) was chosen by Canada. The American judge was Steven M. Schwebel.

The jurisdiction of the Court is by the consensus of the parties appearing before it. Jurisdiction can be invoked (1) by a joint special agreement (also known as a *compromis*) to submit the dispute to the Court; (2) through a jurisdictional

argument and examine witnesses. States are often represented by extensive teams of lawyers and technical experts. There is no specialized International Court of Justice Bar and hence no conditions to be met for counsel and/or advocates to appear before the Court other than being appointed by a government.

The Judgment

THE SPECIAL AGREEMENT ANNEXED TO THE TREATY submitting the boundary question to the Chamber of the International Court of Justice requested the Chamber to decide “in accordance with the principles and rules of international law ... the course of the single maritime boundary that divides the continental shelf and fisheries zones of the United States and Canada”.¹¹ The parties fixed the starting point of the delimitation at 44° 11' 12" north and 67° 16' 46" west, which was the first point of intersection of the two lines

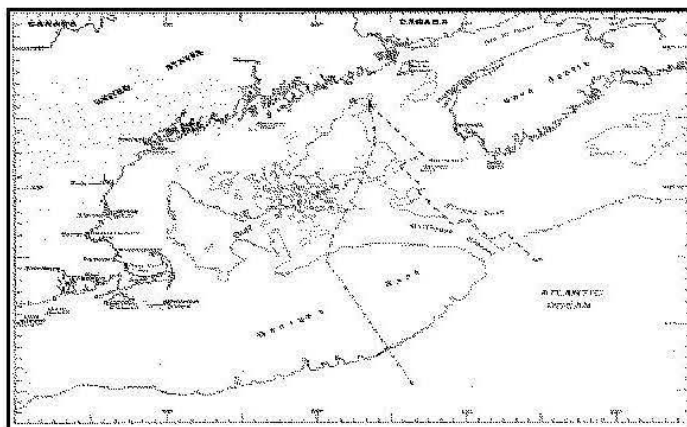
at the limits of fishing zones claimed by Canada and the United States when the countries decided upon the extension of their fishing jurisdictions to two hundred miles.

Notably, the starting point was not the international boundary terminus that was fixed in Grand Manan Channel by a February 24, 1925 treaty between the two nations, because sovereignty over Machias Seal Island and North Rock was in dispute and are seaward of the 1925 terminus.¹¹ This remains an unresolved matter between the United States and Canada. Thus, seaward of Machias Seal Island, the parties asked the Chamber to describe the course of the maritime boundary in terms of geodetic lines and to depict the course of the boundary on hydrographic charts.¹²

The Gulf of Maine case would be noteworthy for many reasons. The Court underscored one in particular: "[T]he ... aspect which distinguishes this case from all those previously adjudicated is the fact that, for the first time, the delimitation which the Chamber is asked to effect does not relate exclusively to the continental shelf, but to both the continental shelf and the exclusive fishing zone, the delimitation to be by a single boundary ... that the single boundary line to be drawn should be applicable to all aspects of the jurisdiction of the coastal state, not only jurisdiction as defined by international law in its present state, but also as it will be defined in the future."¹³ It was also the first international maritime boundary case to reach the Court since the 1982 United Nations Convention on the Law of the Sea (UNCLOS),¹⁴ which provided a vague formulation for delimiting the maritime boundaries between states' exclusive economic zones (EEZ) and continental shelves:

The delimitation of the exclusive economic zone/continental shelf between states with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.¹⁵

However, the Convention was not in force as between the Canada and the United States. Although it was the paramount international legal instrument for the oceans, it provided minimal guidance for maritime boundary delimitation. Therefore, this area of law has developed through International Court of Justice decisions and judgments of



Delimitation lines proposed by the parties before the Chamber.

other international tribunals. As the Court in the *Libya-Malta* case observed, "The Convention sets a goal to be achieved, but is silent as to the method to be followed to achieve it. It restricts itself to setting a standard, and it is left to the states themselves, or to the courts, to endow this standard with specific content."¹⁶

Neither of the principal conventions could be applied by the Court to these parties in this dispute. Thus, the Chamber primarily relied upon customary international law, which provided only a few basic legal principles as guidelines to be followed. A key objective was to achieve an equitable result. The problem of a single maritime boundary for multiple ocean zones was new, and practice was sparse and was driven by the special characteristics of each case.¹⁷ The Chamber would break new ground in international law.

The parties agreed upon a fundamental norm applicable to the delimitation of a single maritime boundary: that the delimitation must be effected in accordance with equitable principles accounting for all relevant circumstances to achieve an equitable result.¹⁸ The Chamber further clarified this by declaring that the fundamental norm required that all maritime boundary delimitations, whether through negotiation or dispute resolution, must be achieved "by the application of equitable criteria and by the use of practical methods capable of ensuring, with regard to the geographic configuration of the area and other relevant circumstances, an equitable result."¹⁹ This was the *ratio decidendi* of the decision and its purpose was to serve as a guideline to achieve a goal. "In a matter of this kind, international law—and in this respect the Chamber has logically to refer primarily to customary international law—and of its nature only provide a few basic legal principles, which lay down guidelines with a view to an essential objective."²⁰

The Chamber drew a distinction between principles and rules of international law, and the criteria and methods for their application. The Chamber was contextual in its approach, observing that cases are “monotypic and that, more often than not, the most appropriate criteria, and the method or combination of methods most likely to yield a result consonant with what the law indicates, can only be determined in relation to each particular case and its specific characteristics.”²¹ The critical decision tools were the “various equitable criteria and

to those criteria and not other criteria of a fundamentally different kind.”²⁵

The elements of choice-making adopted by the Chamber were a departure from established criteria and a methodological shift. Producing a single line for both the continental shelf and the superjacent water column, the Chamber noted that this “can only be produced by the application of a criterion, or combination of criteria, which does not give preferential treatment to one of these two objects to the detriment of the

other and at the same time is such as to be equally suitable to the division of either of them.”²⁶ The United States urged the Chamber to consider the macrogeographical context of the Gulf of Maine on the North American east coast.²⁷ Canada pressed the Chamber to consider the Gulf



practical methods that may be used to ensure *in concreto* that a particular situation is dealt with in accordance with the principles and rules in question.”²²

This method “is inspired by and derives from a particular equitable criterion: namely, that the equitable solution, at least *prima facie*, is an equal division of the areas of overlap of the continental shelves of the two litigant states,”²³ the Chamber noted. However, the applicability of the method would be subject to the condition that no special circumstances in this context would make that criterion inequitable. Any method that produced a *prima facie* unreasonable boundary result would be followed by an appropriate correction consonant with principles of international law. Significantly, the Chamber did not select a basic method that would apply in single maritime boundary delimitations. While indicating that pure geometric methods of equidistance could be used where geographically appropriate, it refused to elevate the equidistance method to a rule of customary law.²⁴ No fundamental method of delimitation was urged. The equitable criteria clarified in the context of delimitating a single maritime boundary would determine the method or methods of implementation. Thus, “methods must be chosen which are instruments suitable for giving effect

as a discrete feature rather than as one feature of a coastline of more than one thousand miles.”²⁸ The Tribunal looked to criteria of a “neutral character” derived from the geography of coasts within the delimitation area. Hence:

Basic choice should favour a criterion long held to be as equitable as it is simple, namely that in principle, while having regard to the special circumstances of the case, one should aim at an equal division of areas where the maritime projections of the coasts of the states between which delimitation is to be effected converge and overlap.²⁹

Given the array of diverse delimitation claims and cases, basic criteria would have to be adjusted, owing to the geographic diversity of the world’s coasts. Geography became the critical conditioning factor and overtook the earlier criterion of natural prolongation:

The Chamber is, furthermore, convinced for the purposes of such a delimitation operation as is here required, international law, as

will be shown below, does no more than lay down in general that equitable criteria are to be applied, criteria which are what may be properly called the geographical features of the area.³⁰

The Chamber proceeded to draw a single maritime boundary in three segments. The first segment was drawn using a pure geometrical method and delimited the innermost area of the Gulf of Maine. There were no special circumstances that required modification. The second segment was determined in two stages owing to the presence of special circumstances. The configuration of the coasts determined the choice of method. At the closing of the Gulf, the coasts of Massachusetts and Nova Scotia face each other and are nearly parallel. The Chamber found the relevant coastline of the United States to be much longer than that of Canada, and this auxiliary criterion of proportionality was taken into account. A difference in coastline ratios favoring the United States resulted in the provisional median line being moved closer to Nova Scotia. A subsequent adjustment in favor of Canada was made by giving “half effect” to Seal Island off the Nova Scotia coast. The third and final segment would determine outcomes pertaining to control of the Georges Bank resources. The Chamber was guided by geography—that is, the orientation of the coasts of the parties abutting on the Gulf of Maine. A perpendicular line was drawn from the point where the corrected median line reached the closing line of the Gulf.

The prize was the continental shelf and the superjacent water column of Georges Bank. It was the geographic configuration of the coasts that determined the boundary within the Gulf and the boundary course outside the Gulf of Maine. The Chamber noted:

It would be unthinkable that, in that part of the delimitation area which lies outside and over against the Gulf, the dividing line should not follow or continue the line drawn within the Gulf by reference to the particular characteristics of its coasts. If one were to seek for a typical illustration of what is meant by the adage ‘the land dominates the sea,’ it is here that it would be found.³¹

The Chamber underscored that the concept of adjacency, or distance, better conveyed the nexus between a state’s sov-

eignty and its sovereign rights over adjacent submerged land such as the continental shelf and superjacent water column, than did the previously accepted idea of natural prolongation.³² Geography was the primal factor conveying legal title. The Chamber stated that:

“legal title” to certain maritime or submarine areas is always and exclusively the effect of a legal operation. The same is true of the boundary of the extent of the title. That boundary results from a rule of law, and not from any extrinsic merit in the purely physical fact. In the Chamber’s opinion, it is therefore correct to say that international law confers on the coastal state a legal title to an *adjacent* continental shelf or to a maritime zone *adjacent* to its coasts; it would not be correct to say that international law recognizes the title *conferred on the state by the adjacency* of that shelf or that zone, as if the mere natural fact of adjacency produced legal consequences.³³

Legal entitlement to ocean space turns on legal title to land. The equitable result that was the goal of the fundamental norm was achieved by “taking into consideration for each party, the extent of the link between the land and the waters, the coastal state’s right and the equitable limit of its claim being a function of the land factor.”³⁴ Maritime boundary delimitation theory and practice must now account for the application of geographic criteria and methods that clearly link the land and the sea.

In future delimitations, the tribunal will initially identify the area in which the delimitation is to take place and the geographical features within that area that will affect the projected boundary outcome.³⁵ After identifying the relevant area, a tribunal must assess the features in the area and any effect that might bear upon delimitation. Because the land dominates the sea, the technique of choice has been the equidistance line. However, an equidistance line can result in distortions and inequitable outcomes.

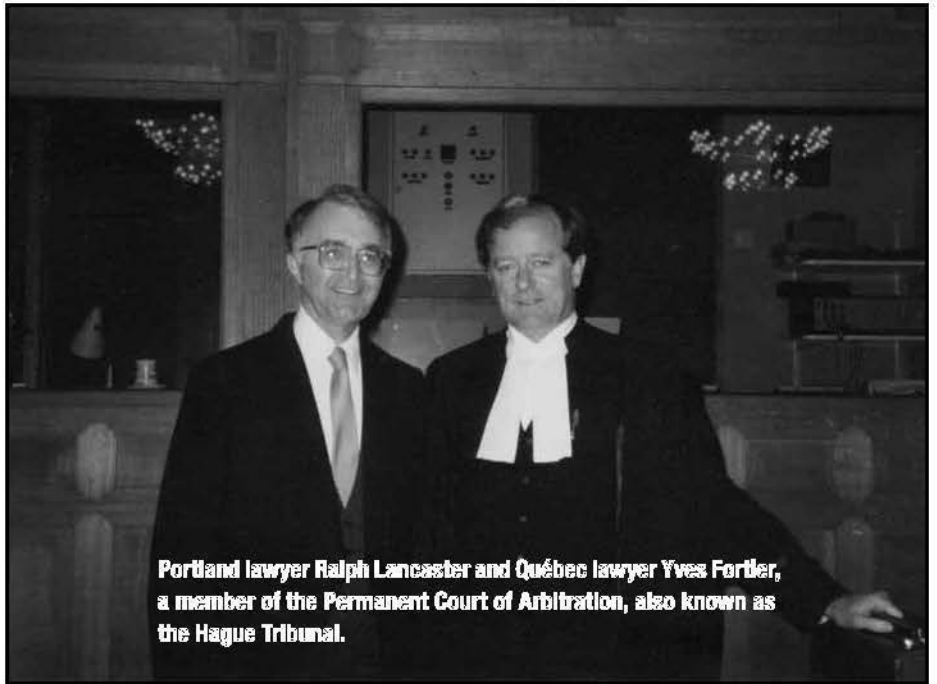
The Chamber articulated a guideline for geographic features: equitable and geographic factors will be critical conditioning factors in ensuring that the outcome is indeed equitable. The *Gulf of Maine Case* Chamber favored geography over other factors, including economic factors.³⁶ The significance of economic activity to boundary delimitation was treated by the Chamber:

It is, therefore, in the Chamber's view, evident that the respective scale of activities connected with fishing—or navigation, defence or, for that matter, petroleum exploration and exploitation—cannot be taken into account as a relevant circumstance or, if the term is preferred, as an equitable criterion to be applied in determining the delimitation line. What the Chamber would regard as a legitimate scruple lies rather in concern lest the overall result, even though achieved through the application of equitable criteria and the use of appropriate methods for giving them concrete effect, should unexpectedly be revealed as radically inequitable, that is to say, as likely to entail catastrophic repercussions for the livelihood and economic well-being of the population of the countries concerned.³⁷

The key was the nature of the result. To achieve that outcome, the Chamber adopted as its departure, a rule of general international law that required that the delimitation line be established while applying equitable criteria to that operation, with a view to reaching an equitable result.³⁸ The predominant parameters were provided by the physical and political geography of the area and they guided the Chamber in its decision.³⁹

The Enduring Gulf of Maine Legacy

THE *DELIMITATION OF MARITIME BOUNDARY IN GULF OF MAINE AREA (Canada/United States)*⁴⁰ was the first international maritime boundary case to be decided after the adoption of the 1982 Law of the Sea Convention. The Chamber's legal framework identified and clarified an equitable result as the delimitation goal, and stipulated that relevant circumstances would be factored into achieving that result. The decision was criticized, including by the dissenting Judge Gros, who wrote, "[W]hat is today called equitable ... is no longer a decision based on law but an appraisal of the expediency of a result, which is the very definition of the arbitrary, if no element of control is conceivable."⁴¹



Portland lawyer Ralph Lancaster and Québec lawyer Yves Fortier, a member of the Permanent Court of Arbitration, also known as the Hague Tribunal.

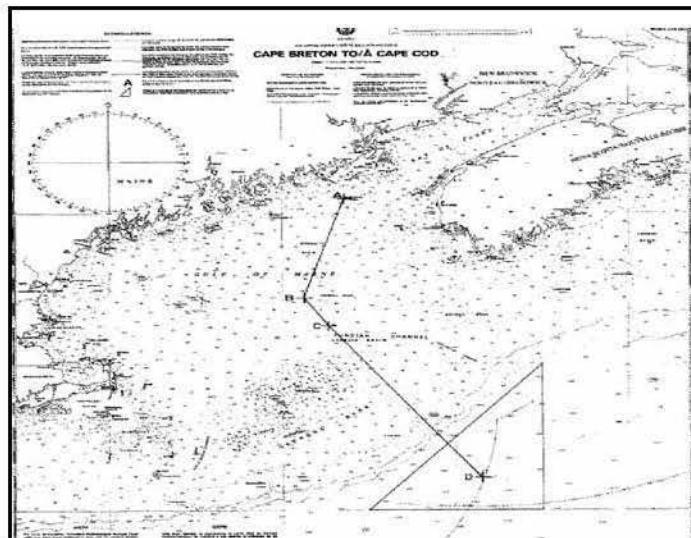
However, this writer joins others who find the decision grounded in law and equity⁴² consistent with international maritime boundary law. As scholars have noted, "the legal standards applied by the Chamber, while leaving certain latitude of the exercise of judgment, are as objective as possible under the circumstances ... the Chamber's focus on geographical factors was correct."⁴³ This was the first decision of the Court concerning the delimitation of a single maritime boundary for both the continental shelf and the superjacent water column.⁴⁴ Policy professionals, practitioners and scholars continue to mine its bearing on contemporary delimitation practice.⁴⁵

From that first major international maritime boundary delimitation post-UNCLOS, more than a dozen cases have considered its principles to apply to maritime delimitation. The *Gulf of Maine* judgment continues to influence maritime delimitation practice and decisions of international tribunals. Post-*Gulf of Maine* tribunals have tested equidistance lines to determine whether they produce equitable outcomes or should be adjusted equity for special circumstances.⁴⁶ The use of equidistance is not mandated, although the equidistance line is a useful preliminary analytical step. Following an examination of the coastlines of the respective parties, a Tribunal will adjust the line. A fully equitable delimitation will require consideration of coastal proportionality and the relevant lengths of parties' coastlines will be examined to assure that the ratio is comparable to that of a delimited maritime space.

The older international boundary delimitation norm of natural prolongation has been terminated; adjacent islands are considered minor factors and will not generate maritime zones when situated opposite major land masses or larger islands.⁴⁷ The *Gulf of Maine* judgment is a continually relevant optic, having shaped subsequent claims for the use and exercise of coastal state authority over ocean zones. More than twenty-five years later, the judgment generates a distinctive prism for contemporary maritime boundary delimitations and occupies a critical position in evolving maritime delimitation case law. As the late Professor Jonathan Charney observed:

The message of the Court is clear. It does not hold out the possibility that a clearly determinative black-letter rule of law will be established. Nor should the maritime boundary law devolve to the point where it is so indeterminate that each delimitation is decided on an ad hoc basis comparable to a decision *ex aequo et bono*. Rather, in the common-law tradition as understood by the realists, the continuing series of judgments and awards should progressively refine the legal rules and their objectives. Over time, the essential normative objectives of this law may be better understood, notwithstanding the fact that they may not be adequately captured in a codification.⁴⁸

The emerging International Court of Justice functional delimitation approach—in which the law is continually refined—is, in large measure, the jurisprudential legacy of the case. The *Gulf of Maine* judgment has been pivotal in the further clarification of delimitation goals, the specification of standards, and the evolution of international maritime law. Governments and many other entities assert multiple claims to the seas implicating the ocean jurisdiction of states. With respect to Canadian and American claims, the *Gulf of Maine* Chamber clarified the equitable outcome goal as a fundamental norm, examined trends in coastal state demands, considered the relevant circumstances as the conditions that would shape those demands, and carefully appraised delimitation claims of each party against a range of future projections. The resulting delimitation decision was the culmination of a complex process whose outcome implicated the power, wealth and well-being of two coastal nations. ▲



Delimitation line drawn by the Chamber

Case and the Future of Ocean Boundary Delimitation, 38 ME. L. REV.7 (1986).

2. See, DOUGLAS JOHNSTON, *THE THEORY AND HISTORY OF OCEAN BOUNDARY-MAKING*, 178–9, McGill-Queen's University Press, 1988.

3. Canada took the position that the boundary should follow the equidistance line under Article 6 of the 1958 Convention on the Continental Shelf and that no special circumstances existed in the area. The United States position was that special circumstances existed, and pressed for a line that would follow the Northeast Channel.

4. The Gulf of Maine is flanked on the north, northwest and west by the United States mainland. Thirty percent of the Gulf of Maine faces the Atlantic Ocean. Georges Bank is seaward of the Gulf.

5. The *Gulf of Maine* case was the third International Court of Justice decision on maritime boundary delimitation, and the first of a single maritime boundary delimitation for continental shelf and superjacent water column.

6. *Statute International Court of Justice* Art 26

7. These declarations are deposited with the United Nations Secretary-General, and many contain reservations excluding certain categories of disputes.

8. Since there is neither an "applicant" state nor a "respondent" state, in the Court's publications their names are separated by an oblique stroke at the end of the official title of the case, e.g., Canada/United States.

9. A state can also initiate proceedings through a unilateral application submitted by an applicant state against a respondent state. The application includes the name of the state party against which the claim is brought, the subject of the dispute, the basis (a treaty or a declaration of acceptance of compulsory jurisdiction) upon which it claims the Court has jurisdiction. It describes the facts and grounds on which the initiating state bases its claim. At the end of the official title of the case the names of the two parties are separated by the abbreviation "v." (for the Latin *versus*), e.g., *Nicaragua v. United States*.

10. Special Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Chamber of the International Court of Justice for the *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, Annex I to Maritime Boundary Settlement Treaty, art II (hereinafter cited as Special Agreement).

11. *Gulf of Maine* case at 23.

12. Special Agreement art. II, para 2.

13. *Gulf of Maine* case, para 26, p 267.

14. United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 3 (hereinafter *Law of the Sea Convention*).

1. *Delimitation of Maritime Boundary in Gulf of Maine Area (Canada/United States)*, 1984 International Court of Justice 246, 279 (Oct. 12). [hereafter *Gulf of Maine* case]. For a thorough appraisal of the case, see Edward Collins and Martin A. Rogoff, *The Gulf of Maine*

15. *Law of the Sea Convention*, art. 74 and art. 83.
16. *Case Concerning the Continental Shelf (Libyan Arab Jamahiriya v. Malta)* [1985] International Court of Justice Rep. 13, 30–31. (hereinafter *Libya-Malta case*)
17. *Gulf of Maine case*, at 290.
18. For a thorough assessment of the use of equitable criteria in the *Gulf of Maine case*, see D. Pharand, “Delimitation of Maritime Boundaries, Continental Shelf and Exclusive Economic Zone in Light of the Gulf of Maine Case, *Canada v. United States* (1984),” 16 *Revue générale de droit*. 1985.
19. *Gulf of Maine case* at 300.
20. *Id.* at 290.
21. *Id.*
22. *Id.*
23. *Id.* at 300
24. *Id.* at 297.
25. *Id.* at 329.
26. *Id.* at 327.
27. *Gulf of Maine case* at 271.
28. *Id.*
29. *Id.*
30. *Id.* at 278.
31. *Id.* at 338.
32. *Id.* at 296.
33. *Id.* at 296, para 103.
34. See, *North Sea Continental Shelf*, Judgment, International Court of Justice Reports 1969, 3, Separate Opinion of Judge Ammoun, at 146.
35. See *Cont'l. Shelf (Tunis. v. Libya)*, 1982 International Court of Justice 18, 34 (Feb. 24); *Delimitation of Maritime Areas between Canada and the French Republic (Canada v. France)*, 31 I.L.M. 1148, 1161 (1992).
36. *Gulf of Maine case* at 278, (expressing that the Chamber was unimpressed by the “gloomy” economic consequences of the various positions where the boundary might fall, given that both Canada and the United States had only claimed EEZs for a period of eight years.).
37. *Gulf of Maine case* at 342.
38. See, *Delimitation of Maritime Boundary in Gulf of Maine Area (Canada/United States)*, 1984 International Court of Justice 246, 339 (Oct. 12).
39. *Id.* at 340.
40. *Id.* at 246.
41. *Id.* Dissenting Opinion of Judge Gross, at 382–83.
42. See *Gulf of Maine Case*, Separate Opinion of Judge Schwebel, at 353.
43. Collins, *supra* note 1 at 7. See also J. Schneider, *The Gulf of Maine Case: The Nature of an Equitable Result*, 79 AM. J. INT'L L. 79, 1985, 539–77, assessing the equitable result of the delimitation in light of Canadian and United States arguments.
44. See L. H. Legault & B. Hankey, *From Sea to Seabed: The Single Maritime Boundary in the Gulf of Maine Case*, AM. J. INT'L L. 79, 1985, 961–91, appraising the significance of the *Gulf of Maine Case* and the *Guinea/Guinea Bissau Arbitration*, and the roots of single-boundary delimitation in the international law governing the EEZ and continental shelf.
45. See S. Kaye, *Lessons Learned from the Gulf of Maine Case: The Development of a Maritime Boundary Delimitation Jurisprudence since UNCLOS III*, 14 OCEAN & COASTAL L. J., 73, 2009.
46. See, *Maritime Delimitation (Eritrea v. Yemen)*, (Perm. Ct. Arb. 1999); *Barbados and Trinidad and Tobago Arbitration (Barbados v. Trinidad & Tobago)*, (Perm. Ct. Arb., 2006); *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain.)*, 2001 International Court of Justice 40 at 104, 111 (Mar. 16); *Maritime and Land Boundary between Cameroon and Nigeria (Cameroon v. Nigeria.)*, 2002 International Court of Justice 303 at 442 (Oct. 10); *Maritime Delimitation in the Area between Greenland and Jan Mayen*, 1993 International Court of Justice at 60.
47. See J. Van Dyke, “The Role of Islands in Delimiting Maritime Zones: The Case of the Aegean Sea,” in *The Aegean Issues: Problems and Prospects*, Ankara: Foreign Policy Institute, 1989.
48. Johnathon Charney, *Progress in International Maritime Boundary Delimitation Law*, AM. J. INT'L L. 88, 227–56 (1994).

Rudman & Winchell

COUNSELORS AT LAW

takes pleasure in announcing that

Tracy J. Roberts &
Nicholas R. Loukes

have joined the firm
as associates.



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